

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: NEW ENGLAND COMPOUNDING
PHARMACY, INC. PRODUCTS LIABILITY
LITIGATION

MDL No. 2419
Master Dkt. 1:13-md-02419-RWZ

THIS DOCUMENT RELATES TO:

1:13-cv-12682; 1:13-cv-12426; 1:13-cv-12688
1:13-cv-12696; 1:13-cv-12738; 1:13-cv-12915
1:13-cv-12838; 1:13-cv-12489; 1:13-cv-12733
1:13-cv-12480; 1:13-cv-12596; 1:13-cv-12840
1:13-cv-12580; 1:13-cv-12836; 1:13-cv-12581
1:13-cv-12666; 1:13-cv-12583; 1:13-cv-12734
1:13-cv-12597; 1:13-cv-12843; 1:13-cv-12759
1:13-cv-12922; 1:13-cv-12428; 1:13-cv-12923
1:13-cv-12918; 1:13-cv-12914; 1:13-cv-12490
1:13-cv-12311; 1:13-cv-12491; 1:13-cv-12998
1:13-cv-12917; 1:13-cv-12619; 1:13-cv-12238

**MOTION FOR LEAVE TO FILE
REPLY IN SUPPORT OF THE PLAINTIFFS' STEERING COMMITTEE'S
RULE 56(d) RESPONSE TO THE TENNESSEE DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT**

Pursuant to Local Rule 7.1(b)(2), the Plaintiffs' Steering Committee (the "PSC") moves this Court for leave to file a Reply in Support of its Rule 56(d) Response to the Tennessee Defendant's Motion for Summary Judgment (Dkt. No. 948). On March 14, 2014, Saint Thomas Outpatient Neurosurgical Center, LLC, Howell Allen Clinic, a Professional Corporation, John W. Culclasure, MD, Debra V. Schamberg, RN; Specialty Surgery Center, Crossville, PLLC; Kenneth R. Lister, MD; and Kenneth Lister, MD, PC, Saint Thomas Health, Saint Thomas Hospital West f/k/a Saint Thomas Hospital, Saint Thomas Network, Ascension, and Ascension Health (collectively, the "Tennessee Defendants") filed a Reply to the Plaintiffs' Steering Committees' [Rule 56(d)] Response to the Tennessee Defendants' Motion for Summary

Judgment (Dkt. No. 1015, the “Tennessee Defendants’ Response”) and filed an Amended Statement of Undisputed Material Facts (Dkt. No. 1016). The PSC, respectfully requests the Court grant the PSC leave to file a Reply in Support of its Rule 56(d) Response to address the arguments made in both filings.

A Reply in Support is needed to clarify the record and allow the PSC to address arguments made in the Tennessee Defendants’ Response, especially in light of the Tennessee Defendants taking the extraordinary step of filing an Amended Statement of Material Fact filed in support of its Motion for Summary Judgment. Further, the Tennessee Defendants filed this Amended Statement of Material Fact without conferring with the PSC and did not seek leave to file such a document pursuant to Local Rule 7.1(b)(3). A Reply in Support is needed to allow the PSC to address whether the Amended Statement of Material Fact is properly before the Court and whether the Amended Statement of Material Fact affects the PSC’s Rule 56(d) Response.

Pursuant to Local Rule 7.1(a)(2) the PSC met and conferred with counsel for the Tennessee Defendants requesting that the Tennessee Defendants consent to the PSC filing a Reply in Support. Counsel for the Tennessee Defendants refused to give consent claiming that the Tennessee Defendants’ Response did not substantially change the basis of its Motion for Summary Judgment.

The PSC’s proposed reply in support is attached hereto as Exhibit A.

Dated: April 4, 2014

Respectfully submitted,

/s/ J. Gerard Stranch, IV

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CERTIFICATE OF SERVICE

I, J. Gerard Stranch, IV, hereby certify that I caused a copy of the foregoing to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: April 4, 2014

/s/ J. Gerard Stranch, IV
J. Gerard Stranch, IV